

## **REMARKS**

### **Summary**

The Application has been carefully reviewed in light of the Office Action dated June 18, 2008. In this response, claims 19 and 23 are amended, claims 7-8, 16-17 are canceled without prejudice or disclaimer of the subject matter, and claim 27 is added. Accordingly, claims 19, 23 and 27 are pending. Further examination is respectfully requested.

### **Rejections under 35 U.S.C. §103**

Claims 7-8, 16-17, and 23 are rejected under 35 U.S.C. 103(a) over US Patent No. 4,758,836 (Scuilli) in view of US Patent No. 5,940,006 (MacLellan) and further in view of US Patent No. 7,065,782 (Shimoji). Applicant respectfully traverses the above-noted rejections under 35 U.S.C. §103(a) because no *prima facie* case of obviousness has been established. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. §2413, 8th edition, Rev. 5 (August 2006).

In lieu of the present Amendment, the rejections of claims 7-8 and 16-17 are now moot. As such, withdrawal of the rejections of claims 7-8 and 16-17 is respectfully requested.

Turning to the specific language of the claim, amended independent claim 19 recites, *inter alia*, "a communication apparatus comprising...a number generating device configured to generate M different random numbers in response to receipt of the instruction signal...a determination device configured to determine whether the number of clocks counted by the counting device matches one of the M different random numbers generated by the number generating device..."

The applied arts, namely Scuilli, MacLellan, and Shimoji, are not seen to teach or suggest at least the above-noted features of claim 19. The Office Action conceded that Scuilli does not explicitly show "a determination device..." (Page 6, lines 5-7, Office Action) However, the Office Action asserts that the determination device is disclosed by MacLellan.

Applicant respectfully disagrees with the Examiner's assertion. Specifically, nowhere is MacLellan seen to teach determining whether the number of clocks counted by the counting device matches one of the M different random numbers. In fact, MacLellan is not seen to be concerned with M different random numbers. The cited section in MacLellan merely teaches receiving Uplink Signals using one Subcarrier 908 frequency, and to receive data (an Address Tag Response 704) from Tag 102-1 on another Subcarrier 908 frequency. (Col. 12, lines 37-40, MacLellan) While MacLellan may teach transmitting or receiving signals multiple times, MacLellan fails to disclose or suggest matching the number of clocks counted by the counting device with M different random numbers (emphasis added).

The Office Action further conceded that both Sculli and MacLellan fail to teach "a number generating device...". (pg. 6, ln 20-22, Office Action) However, the Office Action asserts that the number generating device is disclosed by Shimoji.

As discussed in the previous response, Shimoji is seen to teach a data transmission apparatus for transmitting a plurality of different sets of image data with the same values of PID and stream ID. (col. 45, lines 11-13, Shimoji) However, nowhere is Shimoji seen to teach generating random numbers, much less M different random numbers. Hence, Applicant respectfully submits that Shimoji is not seen to teach "a number generating device configured to generate M different random numbers in response to receipt of the instruction signal", as recited in claim 19.

Based on the foregoing remarks, Applicant respectfully submits that the applied arts, either taken alone or in combination, do not render the invention recited in amended independent claim 19 obvious because the applied arts do not teach at least the foregoing features of claim 19. As such, withdrawal of the rejections of claim 19 is respectfully requested. In addition, amended independent claim 23 contains substantially similar features as that of claim 19, and is rejected based on the same reasons. Hence, claim 23 is also believed allowable for the same reasons discussed above in connection with claim 19. As such, Applicant respectfully requests the Examiner indicate the allowance of claims 19 and 23 at the Examiner's earliest convenience.

The newly added claim 27 is dependent from independent claim 19 and is therefore believed to be in condition for allowance for at least the same reasons. Because

each dependent claim is also deemed to define an additional aspect of the invention, however, individual consideration of each on its own merits is respectfully requested.

### **CONCLUSION**

Any amendments to the claims which have been made in this response which have not been specifically noted to overcome a rejection based upon prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

If any additional fee is required, please charge Deposit Account Number 502456.

Should the Examiner have any questions, the Examiner may contact Applicant's representative at the telephone number below.

Respectfully submitted,

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Date

/Trevor Chuang/

Trevor Chuang, Reg. No. 55,073  
Patent Agent for Applicant

Canon U.S.A. Inc., Intellectual Property Division  
15975 Alton Parkway  
Irvine, CA 92618-3731

Telephone: (949) 932-3310  
Fax: (949) 932-3560